

SENT BY A PERSON IN FEDERAL CUSTODY

CA 98-0363-CB-8

United States District Court	District Southern District Of Alabama
Name of Movant Don Leonard Scott	Prisoner No. 05637-003
Place of Confinement F.C.C. Beaumont-Low #3B, P.O. Box 26020, Beaumont, TX 77712-0288	U.S. District Court Mobile No. MOBILE 94-00061-001

(include name upon which convicted)

UNITED STATES OF AMERICA

V. Don Leonard Scott

(full name of movant)

## MOTION

1. Name and location of court which entered the judgment of conviction under attack Southern District Of Alabama, Mobile, Alabama, Southern Division
2. Date of judgment of conviction August 8, 1994
3. Length of sentence 120 months
4. Nature of offense involved (all counts) Count 1: conspiracy to possess with intent to distribute a Schedule II controlled substance and Count 2: possession with intent to distribute a Schedule II controlled substance

## 5. What was your plea? (Check one)

- (a) Not guilty ☐  
 (b) Guilty ☐  
 (c) Nolo contendere ☒

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:

Was advised by counsel to plead nolo contendere to count one and the government agreed to drop count two based on that plea.

## 6. Kind of trial: (Check one)

- (a) Jury ☐  
 (b) Judge only ☐

## 7. Did you testify at the trial?

Yes ☐ No ☐

## 8. Did you appeal from the judgment of conviction?

Yes ☐ No ☒ appealed sentence

**REFERRED TO JUDGE**  
 For Filing or Appropriate Action

DATE 4-6-98

9. If you did appeal, answer the following:

- (a) Name of court 11th Circuit Court Of Appeals
- (b) Result Sentence and conviction affirmed without published opinion
- (c) Date of result April 4, 1997

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any federal court?

Yes ☒ No ☐

11. If your answer to 10 was "yes," give the following information:

- (a) (1) Name of court U.S. Supreme Court
- (2) Nature of proceeding writ of certiorari

(3) Grounds raised Error made in sentencing in regard to role in the offense  
and in regard to acceptance of responsibility

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☒

(5) Result denied

(6) Date of result October 6, 1997

(b) As to any second petition, application or motion give the same information:

(1) Name of court \_\_\_\_\_

(2) Nature of proceeding \_\_\_\_\_

(3) Grounds raised \_\_\_\_\_

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☐

(5) Result \_\_\_\_\_

(6) Date of result: \_\_\_\_\_

(c) As to any third petition, application or motion, give the same information:

(1) Name of court \_\_\_\_\_

(2) Nature of proceeding \_\_\_\_\_

(3) Grounds raised \_\_\_\_\_

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☐

(5) Result \_\_\_\_\_

(6) Date of Result \_\_\_\_\_

(d) Did you appeal, to an appellate federal court having jurisdiction, the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes ☐ No ☐

(2) Second petition, etc. Yes ☐ No ☐

(3) Third petition, etc. Yes ☐ No ☐

(e) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

U.S. Supreme Court has final authority.

12. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

CAUTION: If you fail to set forth all grounds in this motion, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in these proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you have other than those listed. However, you should raise in this motion all available grounds (relating to this conviction) on which you based your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The motion will be returned to you if you merely check (a) through (j) or any one of the grounds.

(a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily or with understanding of the nature of the charge and the consequences of the plea.

(b) Conviction obtained by use of coerced confession.

- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impanelled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one: See Memorandum

Supporting FACTS (tell your story *briefly* without citing cases or law):

B. Ground two: See Memorandum

Supporting FACTS (tell your story *briefly* without citing cases or law):

C. Ground three: See Memorandum

Supporting FACTS (tell your story *briefly* without citing cases or law):

D. Ground four: \_\_\_\_\_

Supporting FACTS (tell your story *briefly* without citing cases or law): \_\_\_\_\_

13. If any of the grounds listed in 12A, B, C, and D were not previously presented, state briefly what grounds were not so presented, and give your reasons for not presenting them: \_\_\_\_\_

Recently discovered my attorney was ineffective in regards to several aspects of my defense and recent case law allows sentencing disparity for similarly situated co-defendants to be addressed.

14. Do you have any petition or appeal now pending in any court as to the judgment under attack?

Yes ☐ No ☒

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing Jacqueline Phillips, address unknown

(b) At arraignment and plea Jacqueline Phillips and Eulis Simien

Simien's Address: 8110 Summa Ave., St. 100, Baton Rouge, La 70809

(c) At trial n/a

(d) At sentencing Same as arraignment and plea

(c) On appeal Eulis Simien

(f) In any post-conviction proceeding n/a

(g) On appeal from any adverse ruling in a post-conviction proceeding n/a

6. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at approximately the same time?

Yes ☐ No ☒

7. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☐ No ☒

(a) If so, give name and location of court which imposed sentence to be served in the future: \_\_\_\_\_

(b) Give date and length of the above sentence: \_\_\_\_\_

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes ☐ No ☐

Wherefore, movant prays that the Court grant him all relief to which he may be entitled in this proceeding.

\_\_\_\_\_  
Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

March 19, 1998

(date)

Don Leonard Scott  
Signature of Movant

Don Leonard Scott #05637-003  
FCC Beaumont-Low, #3B  
P.O. Box 26020  
Beaumont, Tx 77720-6020